

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SCOTT POWERS, *individually, as Representative* Plaintiff, : 20 Civ. 2625 (LGS)
of the Estate of Erika Zak, :
:
-against- : ORDER
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MEMORIAL SLOAN KETTERING CANCER Defendants. :
CENTER, et al., :
:
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, all discovery closed on April 25, 2021. Dkt. No. 189.

WHEREAS, on April 29, 2021, Defendants filed a pre-motion letter in anticipation of a motion for summary judgment (Dkt. No. 198), and Plaintiff filed a responsive letter (Dkt. No. 203).

WHEREAS, on June 21, 2021, Plaintiff served the Rule 26(a)(2)(b) expert disclosure of Dr. Carlos Torres. Dkt. No. 212.

WHEREAS, on June 25, 2021, Defendants filed a pre-motion letter in anticipation of a motion to strike/preclude the expert opinion and testimony of Dr. Torres as untimely. Dkt. No. 212.

WHEREAS, on July 1, 2021, Plaintiff filed a responsive letter (Dkt. No. 218), and Defendants filed a reply (Dkt. No. 219).

WHEREAS, a conference was held on July 15, 2021, at which the Court heard argument on the proposed motion to strike/preclude Dr. Torres.

WHEREAS, during the conference, Plaintiff stated that he intends to file a Rule 702 motion regarding the expert testimony of defense expert Dr. Theise, that relates to Defendants' anticipated motion for summary judgment. For the reasons stated during the conference, it is hereby

ORDERED that Defendants' pre-motion letter in anticipation of a motion to strike is construed as a motion to strike and such motion is **GRANTED**. The opinion and testimony of Dr. Torres is

excluded as untimely. It is further

ORDERED that the parties shall brief Defendants' motion for summary judgment according to the following schedule:

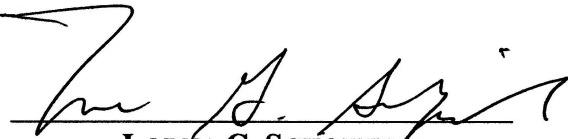
- by **August 16, 2021**, Defendants shall file a summary judgment motion and supporting papers;
- by **September 16, 2021**, Plaintiff shall file an opposition and
- by **September 30, 2021**, Defendants shall file any reply in support of the motion.

The parties shall comply with the Court's Individual Rules including page and other limitations, and if in effect, the Emergency Individual Rules and Practices in Light of COVID-19. It is further

ORDERED, that by **September 16, 2021**, Plaintiff shall file any motion pursuant to Rule 702, challenging the testimony of Dr. Theise, not to exceed five (5) pages, and by **September 30, 2021**, Defendants shall file any opposition not to exceed five (5) pages. No reply shall be filed unless requested.

The Clerk of Court is respectfully directed to close the motion at Docket No. 212.

Dated: July 15, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE